

MUR # 7142



**FACT**

FOUNDATION FOR  
ACCOUNTABILITY  
AND CIVIC TRUST

September 19, 2016

Federal Election Commission  
Office of General Counsel  
999 E Street, NW  
Washington, D.C. 20463

OFFICE OF GENERAL  
COUNSEL

2016 SEP 26 AM 11:08

RECEIVED  
FEDERAL ELECTION  
COMMISSION

**Re: Complaint against Evan Bayh & Evan Bayh Committee**

Dear Counsel,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. This complaint is submitted, upon information and belief, to urge the Federal Election Commission (FEC) to investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act, as amended (FECA), and FEC regulations by Evan Bayh and his campaign committee, Evan Bayh Committee (FEC ID # C00306860).

Senate candidate Evan Bayh is using his campaign website to illegally coordinate with super PACs that support his candidacy.<sup>1</sup> Through postings on his website, Bayh is instructing organizations, with which he is not permitted to coordinate, to run advertisements beneficial to his campaign.<sup>2</sup> This is not general candidate or campaign information provided to the general public. It is a direct request to super PACs that is based on the campaign's internal information and advertising needs, including specific content

<sup>1</sup> See Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); Maggie Severns, *Republicans Pounce on Vulnerable Bayh in Indiana*, Politico, Sept. 14, 2016 (attached as Exhibit E); Evan Bayh Committee, <http://evanbayhforindiana.com/hoosiers-need-know/>, accessed on Sept. 12, 2016 (attached as Exhibit C (Hoosiers Need to Know Page)).

<sup>2</sup> *Id.*

for ads and direction on where to run those ads.<sup>3</sup> It is clear from multiple candidates using the identical phrase to make the request and the same super PAC responding that this is a conspiracy to illegally coordinate. This type of behavior is contrary to federal law that prohibits candidates from coordinating with super PACs, and the fact that the coordination is done somewhat publicly is irrelevant and does not excuse his violations of the law. There is no requirement that the commission of a crime be covered up. The Commission must immediately investigate and enforce the law.<sup>4</sup>

### I. FACTS

Multiple Senate candidates have used their campaign websites to post “thinly veiled notes . . . with hints, tips and flat-out instructions for” super PACs and other organizations.<sup>5</sup> The websites use obscure pages to instruct outside groups on ads to run, including the specific message to convey in ads, and may also include whether the ad should be run state-wide or in a smaller media market or provide photographs and video of the candidate to be used in the ads.<sup>6</sup> The pages all use specific language to convey the ad message, such as voters “need to know” or “should know,” and also indicates “which media markets in the states would make the best targets for those messages.”<sup>7</sup> Further, it appears that all the candidates’ requests are primarily directed to the same super PAC, Senate Majority PAC, along with other outside organizations.<sup>8</sup> The candidates’ method is nearly identical, and purpose and effect is clear—to illegally coordinate with super PACs. Moreover, the number of candidates using the same method to make the request and the same super PAC responding demonstrates that this is a conspiracy to illegally coordinate.

One egregious example of this behavior is Senate candidate Evan Bayh, who uses an inconspicuous page on his website, “Hoosiers Need to Know,” to request super PACs

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<sup>3</sup> *Id.*

<sup>4</sup> *See* 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

<sup>5</sup> Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); *see also* Maggie Severns, *Republicans Pounce on Vulnerable Bayh in Indiana*, Politico, Sept. 14, 2016 (attached as Exhibit E).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

run specific ads in specific media markets.<sup>9</sup> Bayh uses the phrase “Hoosiers need to know” to identify the information he wants conveyed in the ads, providing detailed facts and phrases.<sup>10</sup> Bayh also identifies the media markets in which to run ads, indicating an emphasis on a particular city and state wide.<sup>11</sup>

For instance, in September 2016, Bayh’s “Hoosiers Need to Know” web page stated,

In Indianapolis and all across the State, Hoosiers seniors and [ ] their grown children need to learn that Washington Congressman Todd Young has voted 5 times to allow Social Security funds be gambled on risky Wall Street markets even saying he is ‘proud’ to back a plan that means deep cuts to Social Security. Young is even for raising the Social Security retirement age, putting hard-earned benefits further down the road. The sons and daughters of hard working Hoosier seniors respect social security and understand it is a promise from one generation to the next—one their parents earned, rely on and that they will, too. Todd Young has worked to undermine that promise and can’t be trusted. Todd Young: A Washington Politician in it for himself. Not Indiana.<sup>12</sup>

After posting this message detailing the ad content and the media markets in which to run the ads, Senate Majority PAC responded and stated it would “begin airing ads in Indiana.”<sup>13</sup> On September 15, 2016, Senate Majority PAC published the following ad:

We’ve paid into Social Security, we’ve earned it, and depend on it. So it’s troubling to see Congressman Young call Social Security a Ponzi scheme. Young said he’s proud to back a plan that would make devastating cuts to Social Security. He’d even raised the retirement age. Congressman Young, a Washington Politician, out for himself. Not us.<sup>14</sup>

<sup>9</sup> Maggie Severns, *Republicans Pounce on Vulnerable Bayh in Indiana*, Politico, Sept. 14, 2016 (attached as Exhibit E) (“[Bayh’s] campaign on Monday posted information on his website that appears to signal that Bayh wants help from outside groups, targeting seniors and other adults with negative ads on Young and Social Security.”); Evan Bayh Committee, [www.evanbayhforindiana.com](http://www.evanbayhforindiana.com), accessed on Sept. 12, 2016 (attached as Exhibit B (Home Page)).

<sup>10</sup> Evan Bayh Committee, <http://evanbayhforindiana.com/hoosiers-need-know/>, accessed on Sept. 12, 2016 (attached as Exhibit C (Hoosiers Need to Know Page)).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Maggie Severns, *Republicans Pounce on Vulnerable Bayh in Indiana*, Politico, Sept. 14, 2016 (attached as Exhibit E).

<sup>14</sup> Senate Majority PAC, available at [https://www.youtube.com/watch?v=EYxfy02kL\\_A&feature=youtu.be](https://www.youtube.com/watch?v=EYxfy02kL_A&feature=youtu.be), accessed on Sept. 15, 2016.

Once Senate Majority PAC published the ad, Bayh apparently approved and deleted the link from his home page to the "Hoosiers Need to Know" page.<sup>15</sup>

## II. Law

Under the FECA, candidates for federal office are subject to regulations that limit or prohibit contributions from and interactions with individuals, groups, and organizations. Among these regulations, federal candidates are prohibited from accepting contributions from an individual or a non-multicandidate PAC in excess of \$2,700, from a multicandidate PAC in excess of \$5000, or from any corporation or labor organization in any amount.<sup>16</sup> Federal candidates are also prohibited from accepting contributions or coordinating with independent expenditure only committees, *i.e.* super PACs.<sup>17</sup>

Contributions are broadly defined to include cash donations, but also "anything of value . . . for the purpose of influencing any election for Federal office."<sup>18</sup> Federal law specifically provides that certain expenditures are contributions, including: (i) "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents."<sup>19</sup>

In order to determine whether an expenditure was made in cooperation with a candidate under subsection (i), FEC regulations provide a three-part test: (1) the communication is paid for by a third-party; (2) the communication satisfied a "content" standard of 11 C.F.R. § 109.21(c); and (3) the communication satisfies one of the "conduct" standards of 11 C.F.R. § 109.21(d).<sup>20</sup>

## II. Analysis

Evan Bayh's actions are not only a clear attempt to violate the law, but a successful one. This is not a case where a super PAC has lifted information available to the general public from a candidate's web page. Rather, this is a case where the candidate has made an inconspicuous web page simply to directly communicate with a super PAC and request

<sup>15</sup> Evan Bayh Committee, [www.evanbayhforindiana.com](http://www.evanbayhforindiana.com), accessed on Sept. 15, 2016 (attached as Exhibit D (Home Page)).

<sup>16</sup> 52 U.S.C. §§ 30116, 30118.

<sup>17</sup> 52 U.S.C. §§ 30101, 30118.

<sup>18</sup> 52 U.S.C. § 30101(8)(A).

<sup>19</sup> 52 U.S.C. § 30116(a)(7)(B)(i).

<sup>20</sup> 11 C.F.R. § 109.21.

specific ads be run. There are numerous facts that evidence coordination: The link to the “Hoosiers Need To Know” page was obscure, and the page itself has a different appearance than the site and indicates it was published for a different purpose than the general web site and not for the general public. The request uses the same language as other candidates—“Hoosiers need to know”—to indicate that it is the request. The campaign, which has knowledge from polling and its own media buys, is stating what ad content would be helpful to the campaign and in what specific media markets those ads should air—an emphasis on Indianapolis and then state wide. The timeline of a website post, followed by the requested ad, and then the deletion of the link to the webpage after the ad airs shows that a request is being made and acted upon. These facts make it clear that Bayh is using the “Hoosiers Need to Know” page to communicate with super PACs and other groups about the types of ads that would be helpful to his campaign.

In addition to these facts clearly demonstrating coordination, they also meet the FEC’s three-prong test. First, the communications were paid for by other groups—the super PAC, Senate Majority PAC.

Second, the ads meet the content prongs under 11. C.F.R. § 109.21(c). Under subsection (5), the ads are the “functional equivalent of express advocacy” because they are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified Federal candidate.”<sup>21</sup> The ads are intended to urge voters to vote for Bayh over his opponent, who is characterize in a negative manner—this is information that Bayh has explicitly stated voters need to know before voting.<sup>22</sup>

Finally, the ads meet the conduct prong under 11 C.F.R. § 109.21(d). Under subsection (1), the ads were clearly created and distributed at the request of the candidate and his committee. In addition to the numerous facts discussed above that demonstrate coordination, the super PACs response also demonstrates the candidate and campaign made a request. Although the request was made through a public web page, this does not excuse the fact that the request was made.<sup>23</sup> Unlike other conduct prongs, subsection (1)

<sup>21</sup> 11 C.F.R. § 109.21(c)(5)

<sup>22</sup> Evan Bayh Committee, [www.evanbayhforindiana.com](http://www.evanbayhforindiana.com), accessed on Sept. 12, 2016 (attached as Exhibits B (Home Page) and C (Hoosiers Need to Know Page)).

<sup>23</sup> Compare 11 C.F.R. § 109.21(d)(1)(i) (“The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political

does not state that it does not apply if the “material was obtained from a publicly available source.” Rather, any interpretation of subsection (1) that would permit this would result in permissible coordination by request so long as the request was made publicly—this is unreasonable and contrary to the regulations and statute.<sup>24</sup> Moreover, this is not a case where the communication contained generally publicly available information—a request was made based upon internal campaign information to a super PAC, and the fact it was made on a webpage is irrelevant. Any interpretation of the Commission’s regulations that would permit illegal acts to be committed publicly is plainly erroneous and inconsistent with the statute. Finally, it is clear to the public that Bayh is using this webpage to request super PACs run specific ads.<sup>25</sup>

### III. Conclusion

There should be no doubt Bayh is using the “Hoosiers Need to Know” page on his website to coordinate with super PACs, and that coordination has resulted in ads that are illegal in-kind donations to Bayh’s campaign. This is an extreme violation because unlike candidates, super PACs can accept unlimited contributions and any permitted cooperation with a federal candidate would simply eviscerate the FECA. It is not a defense that Bayh is using a public venue to illegally coordinate with a super PAC—there is no requirement that a crime be committed in secret. Moreover, the number of candidates using the same method to coordinate with the same super PAC indicates this is a conspiracy to coordinate that demands the Commission act. If the Commission does not act and punish such a clear

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party committee.”), with 11 C.F.R. § 109.21(d)(2) (“This paragraph . . . is not satisfied if the information material to the creation, or distribution of the communication was obtained from a publicly available source.”)

<sup>24</sup> The commission has previously stated “that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate’s campaign website, does not satisfy the content standards.” FEC, Factual & Legal Analysis, Shaheen for Senate, MUR 6821 (Dec. 2, 2015). However, this analysis should only apply to the conduct alternatives that explicitly state this in its description. See, e.g., 11 C.F.R. § 109.21(d)(2) and (3). Any other interpretation would be contrary to the plain language of the Commission’s regulations.

<sup>25</sup> See Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); Maggie Severns, *Republicans Pounce on Vulnerable Bayh in Indiana*, Politico, Sept. 14, 2016 (attached as Exhibit E).

violation, then the laws are without purpose. FACT respectfully requests the Commission immediately investigate and hold the Respondents accountable.

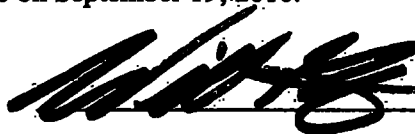
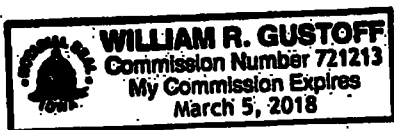
Respectfully submitted,



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Matthew G. Whitaker, Executive Director  
Foundation for Accountability & Civic Trust  
1717 K Street NW, Suite 900  
Washington, D.C. 20006

Subscribed and sworn to before me on September 19, 2016.



Notary Public



Federal law prohibits candidates from explicitly coordinating with outside groups, but public communications that outside groups pick up on are fair game, with few limitations, and campaigns' experiments with such missives are growing bolder over time. | AP Photo/J Pat Carter

## Democratic candidates writing instructions to super PACs on their websites

By MAGGIE SEVERNS | 07/15/16 05:02 AM EDT

You don't have to look hard to find out how Democratic Senate candidates want their outside allies to spend money this year.

The party's candidates in Florida, Ohio, Pennsylvania and elsewhere are posting thinly veiled notes on their websites with hints, tips and flat-out instructions for supportive outside groups about how best they can help. The pages include not only messaging information but suggestions about which media markets in the states would make the best targets for those messages.

In a small, yellow box on her campaign site, Katie McGinty regularly publishes notes on what issues Pennsylvania voters, particularly women, should be hearing about. Ted Strickland has a public page, "Ohio Needs to Know," with issue briefs on GOP Sen. Rob Portman's vote record and b-roll of a smiling Strickland talking to voters. And Democratic outside groups have already lifted the messages on both pages for use in expensive TV ads that the Senate campaigns themselves may not have been able to afford at the time.



**Federal law prohibits candidates from explicitly coordinating with outside groups, but there's a loophole as wide as the internet itself. Public communications that outside groups pick up on are fair game, with few limitations, and campaigns' experiments with such missives are growing bolder over time.**

**"It used to be you sent out smoke signals. But there's no need to be elliptical about the smoke signals anymore," said Kenneth Gross, a campaign finance expert and partner at Skadden, Arps, Slate, Meagher & Flom.**

**At least five Democratic Senate candidates have posted such messages recently, a review by POLITICO found, which experts said are notable for their level of specificity. Some verge on instructing super PACs on what to do, which is prohibited, but campaign finance experts said they would most likely clear the current bars enforced by the Federal Election Commission.**

**In Florida, Rep. Patrick Murphy's campaign has a clear message for supportive outside groups, potentially including the DSCC and a super PAC funded by his family. "Florida Democrats, especially those from Tampa to Orlando, deserve to know that President [Barack] Obama endorsed Patrick Murphy," Murphy's website reads.**

**Murphy's own campaign is preparing to spend over a million dollars on TV ads ahead of Florida's Aug. 30 primary, but Orlando is missing from the early ad reservations, according to a source tracking Murphy's media buys. And Murphy's buy in Tampa is far below saturation levels.**

**The McGinty, Murphy and Strickland campaigns declined to comment for this story, as did two outside groups: Senate Majority PAC and EMILY's List.**

**Strickland's campaign recently hinted that it would appreciate certain ads in certain media markets, according to transcripts provided to POLITICO of text that appeared on Strickland's website in May.**

Two notices posted in early May said that “people in Columbus should know about the contrast between Portman and Strickland on retirement security,” and that “people in Cleveland, Akron, Canton, Youngstown and Appalachia should see and hear about the contrast between Portman and Strickland on trade policy.”

**On May 24, labor groups went live with two ads in Ohio in just those media markets.**

**The American Federation of Teachers ran an ad only in Columbus that hit Portman on Social Security. Meanwhile, a second ad from AFSCME, which ran in Cleveland and Youngstown, criticized Portman on trade.**

**Strickland posted a June update about educating Ohio voters on Portman's Social Security positions that was followed by ads run by Senate Majority PAC on the issue. A new post, from July 12, notes that "Ohioans across the state will always need to know about the contrast between Ted Strickland and Senator Portman on trade."**

**These hints on geography “come close to being directions on how to help the campaigns,” said Larry Noble, general counsel at the Campaign Legal Center, which is illegal. But currently, the FEC has interpreted law in a way that “if [campaigns] do it publicly, it’s not coordination.”**

Other public hints to super PACs have focused just on messaging. In March, ahead of her tough primary against ex-Rep. Joe Sestak in Pennsylvania, one of McGinty's notes highlighted her biography: "As the ninth of ten children and the daughter of a police officer who walked the beat and restaurant hostess [sic], Katie McGinty is

fighting to help everyday families," the McGinty website read on March 7.

EMILY's List's super PAC began airing ads focused on just that on April 4.

"Her dad was a Philly cop, her mom worked in a restaurant. ... She'll always stand up for manufacturing, higher wages and equal pay for women so opportunity never gets out of reach," a narrator said in the first ad aired by EMILY's List.

By March 24, McGinty's site updated with negative information about her primary opponent. Voters "need to know" that Sestak supported a plan that "would have cut Social Security and Medicare benefits, raised the Social Security retirement age to 69, and forced higher out-of-pocket spending for Medicare recipients," McGinty's website read.

EMILY's List's second ad, released April 11, again reflected the text: "Joe Sestak supports a plan that the New York Times reported makes cuts to Social Security benefits, and the plan raises the retirement age. ... The plan Sestak supports means higher out-of-pocket costs for millions on Medicare."

The FEC recently ruled on a similar exchange of information in 2014, between Sen. Jeanne Shaheen and Senate Majority PAC during the 2014 election. The commission said that because the PAC didn't copy Shaheen's signals verbatim and Shaheen didn't explicitly instruct the PAC to make the ads, the public signaling was allowed.

That ruling, and others like it, have increasingly convinced campaigns and outside spenders that public messages between campaigns and super PACs are unlikely to draw punishment from the FEC — even if they appear to be against the spirit of campaign finance laws. And with Democratic campaigns like Strickland's, McGinty's and others making do with less money than their opponents, they clearly want to make sure supporters don't spend precious resources on anything but the optimal message.

McGinty's campaign has kept up its signaling into the general election. Majority Forward, a 501(c)(4) nonprofit affiliated with Senate Majority PAC, spent \$400,000 attacking Republican Sen. Pat Toomey with an ad that began airing at the end of June in Pennsylvania.

"Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market," a narrator says in the ad.

McGinty's campaign appeared thankful to see that ad on TV — but unsatisfied with the amount of money behind the message.

"Pennsylvania voters all across the state need to keep hearing a lot more about Pat Toomey and Wall Street," McGinty's website currently reads. "Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market."

Visit the [Campaign Pro Race Dashboard](#) to track the candidates and consulting firms engaged in the top House, Senate, and gubernatorial races of 2016.

Hoosiers Need to Know That They Can't Trust Congressman Young on Social Security

GET STARTED

WORK TOGETHER *with* EVAN BAYH

Email address

ZIP code

JOIN OUR TEAM

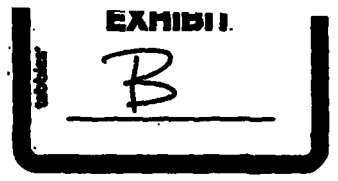
**EVAN BAYH**

*Putting Hoosier Values First*

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As a fifth generation Hoosier, husband and father of two sons, Evan Bayh served as Indiana's 46th governor and successfully balanced the state budget each year. As U.S. senator for Indiana, he worked across party lines to get results for Hoosier families and businesses. Today he wants your support to return to the Senate and bring bipartisanship, principled compromise and Hoosier common sense to Washington.

**GET TO KNOW EVAN**

# KEEP UP *with the* CAMPAIGN

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ICYMI: Yahoo: Todd Young, "Vocal Supporter" Of TPP, Steps Away From Deal

1 WEEK AGO NEWS

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ICYMI: Bayh Hammers Bad Trade Deals on Labor Day Stops

1 WEEK AGO NEWS



First. Take.

<https://twitter.com/PoliticoKevin/status/775762932324065285>

ABOUT 2 HOURS AGO

After his interview with Electric Consumer magazine today in Indianapolis, Richard asked Evan to sign a copy of Marvella's book next to a me...

SEPTEMBER 12, 2016

MORE NEWS

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SEPTEMBER 12TH, 2016

## HOOSIERS NEED TO KNOW

In Indianapolis and all across the State, Hoosier seniors and the their grown children need to learn that Washington Congressman Todd Young has voted 5 times to allow Social Security funds be gambled on risky Wall Street markets even saying he is "proud" to back a plan that means deep cuts to Social Security. Young is even for raising the Social Security retirement age, putting hard-earned benefits further down the road. The sons and daughters of hard working Hoosier seniors respect social security and understand it is a promise from one generation to the next – one their parents earned, rely on and that they will, too. Todd Young has worked to undermine that promise and can't be trusted. Todd Young: A Washington Politician in it for himself. Not Indiana.

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**2012: Young Voted In Committee Against Stating That Congress Should Not Privatize Social Security.** In March 2012, Young voted in committee against: "Castor, D-Fla. – Amendment that would add "sense of the House" language stating that 'Social Security privatization is fiscally irresponsible and would put the retirement security of seniors at risk, and that any Social Security reform legislation shall reject partial or complete privatization of

the program that includes private accounts funded by current payroll taxes.' It would

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of payroll contributions and reliance on the financial markets undermines the federal budget and the social safety net.'" [Congressional Quarterly, 3/21/12; Congressional Actions, H. Con. Res. 112]

**2011: Young Voted To Oppose Preventing The Privatization Of Social Security.** In April 2011, Young voted to oppose preventing social security privatization as part of the Democrats' proposed budget resolution covering FY 2012 to 2021. According the text of the budget resolution, "It is the policy of this resolution that Social Security should be strengthened for its own sake and not to achieve deficit reduction. Because privatization proposals are fiscally irresponsible and would put the retirement security of seniors at risk, any Social Security reform legislation shall reject partial or complete privatization of the program." The vote was on an amendment to the House budget resolution replacing the entire budget with the House Democrats' proposed budget; the amendment failed by a vote of 166 to 259. [House Vote 276, 4/15/11; Congressional Record, 4/15/11]

**2011: Young Effectively Voted In Committee Against Stating That Any Social Security Overhaul Should Reject Privatization.** In April 2011, Young voted against an amendment that would have, according to Congressional Quarterly, "call[e]d for the resolution to express a sense of the House that Social Security privatization is fiscally irresponsible and puts seniors' retirement at risk, and that any Social Security overhaul should reject partial or complete privatization. It also would [have] amend[ed] the committee report to reflect the policy assumption that any Social Security overhaul legislation rejects privatization proposals." The underlying legislation was the FY 2012 budget resolution, commonly known as the 'Ryan' budget. The vote was on the amendment. The House Budget committee rejected the amendment by a vote of 16 to 20. [Congressional Quarterly, 4/6/11; Congressional Actions, H. Con. Res. 34]

**2011: Young Voted To Allow The Use Funds To Privatize Social Security. In March 2011,**

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amendment that would bar the use of funds made available in the measure to develop or implement a system that would cut Social Security or Medicare benefits, privatize Social Security, eliminate guaranteed health coverage for seniors or establish a Medicare voucher plan that limits payments to beneficiaries." The motion was rejected by a 190-239 vote. [CQ, 3/15/11; motion to recommit H.J. Res. 48, Vote 178, 3/15/11]

***...WHICH COULD ALLOW WALL STREET  
TO REAP BILLIONS IN FEES AS SOCIAL  
SECURITY WAS FUNNELED INTO  
PRIVATE ACCOUNTS***

**NBC News: Privatizing Social Security Could Be A "Windfall" For Wall Street, Generating Billions In Fees.** "President Bush's plan to partly privatize Social Security could be a windfall for Wall Street, generating billions of dollars in management fees for brokerages and mutual fund companies." [NBC News, 12/28/04]

**New York Times: Private Social Security Accounts Could Be Subject To "The Consequences Of Making A Bad Investment Decision."** "According to former Treasury Secretary Paul H. O'Neill, the president believes that the reason he was elected was his bold — some would say risky — stance on replacing part of Social Security with personal accounts. If the president holds onto office in November and his party continues to hold Congress, the creation of some sort of personal retirement accounts as part of Social Security seems likely...The consequences of making a bad investment decision in Sweden are much less severe than they would be in the United States if Mr. Bush gets his way and allows workers

to divert part of the 12.4 percent of their paycheck that goes to Social Security — half from

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**Center on Budget and Policy Priorities: Privatization Of Social Security Could Expose Beneficiaries To "A Substantially Greater Risk Of Lower Returns" And Negatively Affect Retirement In A Down Market.** "A second reason that comparisons claiming private accounts produce much higher rates of returns than Social Security are not valid is that these comparisons generally overlook the fact that investing in the stock market is associated with greater risk and that risk has a cost...It is impossible to access the opportunity for the higher average returns offered in the stock market without subjecting oneself to a substantially greater risk of lower returns. The President has proposed 'life-cycle portfolios' that would shift workers toward a safer portfolio, with a greater bond allocation, as they approach retirement. But even this life-cycle portfolio carries risk and does not insulate workers from the risks of retiring in a down market. A paper by leading financial economist Robert Shiller of Yale University found that if future stock and bond returns are as high as the Social Security actuaries project, investors with life-cycle accounts along the lines that the President has proposed would end up losing money 32 percent of the time.[12]" [Jason Furman, Center on Budget and Policy Priorities, 6/2/05]

**USA Today Editorial: "Social Security Is, Among Other Things, The Nation's Most Effective Anti-Poverty Program, And When The Markets Crash, The Elderly Shouldn't Crash With Them."** "There's no silver bullet, despite what privatizers preach about the magic of turning Social Security over to the markets. In fact, it's mystifying that anyone who watched his or her 401(k) stagnate with the stock market for the past decade would want to trade Americans' guaranteed retirement security for the unreliable mercies of the markets. What advocates of replacing Social Security with private accounts don't say is that their system might occasionally beat Social Security, but it depends heavily on when you retire. People who retired in 1982 with nothing but a stock portfolio, for example, reached the end of their working life after 17 frustrating years of zero long-term gain in the market. The Dow Jones industrial average got within a few points of 1,000 in 1965, but it didn't break

1-800-555-2622

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- **Young Said He Was “Proud” To Have Co-Sponsored The Cut, Cap, And Balance Act.** “Rep. Todd Young (R-IN9) released the follow statement this evening after the House passed H.R. 2560 (Cut, Cap and Balance Act of 2011)

a bill he cosponsored by a margin of 234-190. That bill would grant President Obama his request for an increase in the debt ceiling after first

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the U.S. Constitution. Young's remarks were as follows: 'I am proud tonight to have supported the Cut, Cap and Balance Act. This bill is, to date, the only plan that averts the short-term crisis by avoiding default, and averts the long-term crisis by getting our federal spending under control. Now we wait on the Senate and President to put their own plan down on paper so that we can work towards a deal that puts America on stable economic footing. As of yet, we have not seen such a concrete plan, which only adds to the uncertainty faced by job creators around this country uncertainty which does and will continue to hinder job creation and income growth.' [Office of Rep. Young, Press Release, 7/19/11]

## ***...WHICH WOULD FORCE "DEEP CUTS" TO SOCIAL SECURITY***

**Center on Budget and Policy Priorities: Cut, Cap And Balance Bill "Would Necessitate Deep Cuts" To Social Security And Medicare.** "The legislation would inexorably subject Social Security and Medicare to deep reductions. The measure does not cut Social Security or Medicare in 2012. And it does not subject them to automatic cuts if its global spending caps are missed. It is inconceivable, however, that policymakers would meet the bill's severe annual spending caps through automatic across-the-board cuts year after year; if they did, key government functions would be crippled. Policymakers would have little alternative but to institute deep cuts in specific programs. And as noted elsewhere in this statement, before the debt limit could be raised, Congress would have to approve a constitutional balanced budget amendment that essentially requires cuts even deeper than those in the Ryan budget. Reaching and maintaining a balanced budget in the decade ahead while barring any tax increases would necessitate deep cuts in Social Security, Medicare, and Medicaid. After all, by 2021, total expenditures for these three programs will

be nearly 45 percent greater than expenditures for all other programs (except interest

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- **Center on Budget and Policy Priorities: Cut, Cap, And Balance “One Of The Most Ideologically Extreme Pieces Of Major Budget Legislation To Come Before Congress In Years.”** “The ‘Cut, Cap, and Balance Act’ that the House of Representatives will vote on next week stands out as one of the most ideologically extreme pieces of major budget legislation to come before Congress in years, if not decades. It would go a substantial way toward enshrining Grover Norquist’s version of America into law.” [Center on Budget and Policy Priorities, 7/16/11]

- **Center For American Progress: Cut, Cap, Balance Means “Simply Massive Cuts” To Social Security And Medicare.** “There is no way around the basic arithmetic. The only way to achieve that level of spending is by radically altering some fundamental public programs and services. A federal spending cap may sound innocuous but it is simply massive cuts to Social Security, Medicare, and Medicaid by another name.” [Center for American Progress, 7/18/11]

**AARP Opposed Cut, Cap And Balance Because It Did Not Shield Social Security and Medicare From “Arbitrary Reductions.”** “In addition, the Cut, Cap and Balance Act requires that a balanced budget amendment to the United States Constitution be transmitted to the states as a pre-condition of increasing the debt ceiling. Social Security and Medicare, which are not excluded under the balanced budget amendment, would therefore be at risk for arbitrary reductions under the constitutional amendment, and as such, AARP is opposed.” [AARP Letter, 7/21/11]



## **National Committee To Preserve Social Security And Medicare: Cut, Cap And Balance**

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**DOOR TO MASSIVE NEW TAX CUTS.** According to the National Committee to Preserve Social Security and Medicare: As a result, these proposals would require draconian spending cuts of such a magnitude as to force policymakers to severely slash Medicare, Medicaid, and many other programs while opening the door to massive new tax cuts. What is most alarming to our members is that the amendment would negatively impact Social Security by essentially nullifying the trust funds as a source of funding for the payment of benefits." [National Committee to Preserve Social Security and Medicare, 7/18/11]

## ***YOUNG SUPPORTED RAISING THE SOCIAL SECURITY RETIREMENT AGE***

**2012: Young Supported The Simpson-Bowles Social Security Reform Plan, Which Raised The Retirement Age.** According to The Indianapolis Star, "He [Young] supports the bipartisan Ryan-Wyden plan to reform Medicare, which would create a voucher-like option for people younger than 55. On Social Security, he would use the bipartisan Simpson-Bowles plan as a framework for an overhaul – the plan would increase revenues and slow the growth of benefits, in part by raising the retirement age." [Indianapolis Star, 10/23/12]

**2010: Young Supported Raising The Retirement Age On Social Security.** According to WRBI – 103.9 FM, "The Republican is a 37 year old attorney and father with a military background in intelligence. After being introduced by the state attorney general and sharing his views and background, Young took questions on the economy, relations with Iran, and a bi-partisan commission proposal to look at entitlement spending. He said he's ready to make the hard decisions, one being on raising the retirement age in order to sustain social security." [WRBI – 103.9 FM, 2/25/10]

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CONGRESS

## Republicans pounce on vulnerable Bayh in Indiana

Senate Democrats see Indiana as a linchpin of their efforts to take back the majority, but the state suddenly doesn't look like a lock.

By MAGGIE SEVERNS | 09/14/16 05:17 AM EDT



The GOP has poured millions into bashing senatorial candidate Evan Bayh and is now redoubling its efforts. | Getty



When Evan Bayh made his late leap into Indiana's Senate race in July, he looked like a lock to take back his old seat. Now, no one is so sure.

Democrats hoped to scare Republicans out of competing for Indiana altogether with an early show of force this summer, essentially locking up a third Senate pick-up from Republicans' 54-seat majority before the fall campaign even got started. But the GOP has instead poured millions into bashing Bayh and is now redoubling its efforts, as multiple independent surveys now show a much closer campaign than Democratic polls released this summer — and with that, less margin for error in Democrats' drive to retake the majority, which recently expanded into new vulnerable GOP-held states but has also been set back by developments in Florida and Ohio.

Republican groups have already spent \$5 million in Indiana on television and canvassing efforts, Federal Election Commission records show. Senate Leadership Fund, the biggest Republican Senate super PAC, began pouring another \$4 million in TV advertising into the state on Tuesday — and Democrats' main super PAC is getting ready to respond.

Republicans hope Donald Trump's current lead in Indiana, combined with a barrage of advertising on Bayh's record in Washington — both as a senator and, after his Senate retirement, as an employee for a D.C. lobbying and law firm and a corporate board member — will push relatively unknown Republican Rep. Todd Young to victory over the well-established Bayh, a former governor as well as a senator.

The key has always been whether Republicans had enough time and willingness to run a major campaign attacking Bayh's record. The groups arrayed against him think that they do.

"We have his lead cut in half, and we think this race is absolutely one we're going to get done," Americans for Prosperity President Tim Phillips said.

The Koch network was the first GOP group to go up on air after Bayh entered the race and has deployed its two dozen staff members in the state to make the case against him, painting Bayh's work for a lobbying firm as cronyism and criticizing Bayh's vote in favor of

**18044444444**



## CONGRESS

## Cruz's conundrum: Help GOP save the Senate?

**By** **BURGESS EVERETT**

Democrats had started to pencil in Indiana as a likely Senate victory alongside Illinois and Wisconsin, which would put them on the precipice of retaking Senate control from the GOP. Yet there are many signs of Republicans' continuing belief in Young. Former President George W. Bush joined Young at two Indiana fundraisers Monday. The U.S. Chamber of Commerce — which not too long ago paid Bayh to speak around the country about the regulatory process — is meanwhile “fully committed to Todd Young being the next senator from Indiana,” said U.S. Chamber of Commerce national political director Rob Engstrom.

**Young has never led in a public survey, but two recent ones suggest the race is closer than in four previous polls conducted by Democratic groups, including one from Bayh's campaign, that had Bayh's lead between 16 and 26 percentage points. An independent survey for Howey Politics Indiana and WTHR (conducted by a GOP firm) showed Bayh ahead 44 percent to 40 percent, while a previous Monmouth poll showed Bayh up 48-41.**

**A private survey commissioned by a right-leaning outside group the week after Labor Day found Young within 10 points of Bayh, according to results shared with POLITICO. On the “informed ballot” — after respondents heard messages about both candidates — Bayh led Young only 45-43. Meanwhile, Trump has led over Hillary Clinton in recent surveys, too, making Indiana one of the few 2016 Senate states where Republicans aren’t concerned about top-of-the-ticket drag.**

**Asked about the recent polls, Bayh campaign spokesman Ben Ray said that “this is a competitive race in a red state.”**

**"We are ready," Ray said.**

**Republican willingness to take on Bayh is only the first step. The Democrat and his family have long political history in Indiana, with preexisting name recognition that Bayh burnished with immediate TV ads after jumping in the race. Democrats insist that Republicans won't be able to convince Hoosiers that Bayh is a D.C. insider who abandoned their state before Election Day.**

By **BEN WEYL** and **SEUNG MIN KIM**

**In the face of intense media scrutiny, Bayh's attempts to reintroduce himself to Indiana are sometimes garnering less attention than his campaign flubs. Bayh has asserted he is still an Indiana resident, but reporters have found neighbors who attest he's rarely at his Indianapolis condo, and his voter status is inactive. Bayh even botched his own home address in a recent interview.**

**There are signs Bayh is feeling the heat. His campaign on Monday posted information on his website that appears to signal that Bayh wants help from outside groups, targeting seniors and other adults with negative ads on Young and Social Security.**

**“Hoosier seniors and their grown children need to learn that Washington Congressman Todd Young has voted 5 times to allow Social Security funds to be gambled on risky Wall Street markets,” Bayh’s site currently reads.**

**Democrats' Senate Majority PAC announced on Tuesday that it will begin airing ads in Indiana later this week, as first reported by Roll Call, but did not specify how much it planned to spend or how long the ads would run for.**

**By BURGESS EVERETT**

**"We're taking nothing for granted as we work to win back the Senate this November," said Senate Majority PAC spokesman Shripal Shah. "Republicans have spent millions — including nearly \$5 million in just the last month — on misleading attacks to prop up Todd Young's struggling campaign. We're not going to let those attacks go unanswered."**

**With more than \$9 million in the bank when he jumped in the race in July, Bayh started with more money than most candidates heading into the homestretch of the election. It has been enough to advertise heavily in Indiana, where media markets are relatively inexpensive. The DSCC also has \$1.3 million reserved in television spending.**

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